

to an action for partition instituted by any Unit Owner or lienor, as if owned in common. In that case the net proceeds of sale, together with the net proceeds of insurance policies, shall be divided among all Unit Owners in proportion to their respective Common Interests, provided, however, that no payment shall be made to a Unit Owner until there has first been paid, out of his share of such funds, such amounts as may be necessary to discharge all unpaid liens on his Unit in the order of the priority of such liens.

Notwithstanding anything contained herein to the contrary, the proceeds of all policies of physical damage insurance maintained by the Board shall be payable as hereinabove provided in the event of a loss amounting to \$100,000.00 or less. However if such proceeds are in excess of \$100,000.00, then such proceeds shall be payable to and held by the Insurance Trustee pursuant to the provisions of the By-Laws. Lehman Brothers Holdings Inc. (the "Construction Lender") or its successors, assigns or designee, shall, at its option, be the Insurance Trustee for so long it holds any lien on the Property or any Unit. The fees and expenses of the Insurance Trustee shall be paid by the Board and shall constitute a Common Expense.

Insurance

The Board is required to obtain and maintain, to the extent obtainable at reasonable rates and to the extent determined by the Board to be appropriate, the following insurance: (a) fire insurance with all risk extended coverage, and vandalism and malicious mischief endorsements, insuring the Building (but excluding machinery, appliances, fixtures, furniture, furnishings or other personal property within a Unit), together with all service machinery contained therein and covering the interests of the Condominium, the Board and all Unit Owners as additional insured parties, and their mortgagees, all, as their respective interests may appear, in an amount equal to at least 80% of the full replacement value of the Building (exclusive of foundation and footings), without deduction for depreciation; (b) worker's compensation and New York State disability benefits insurance; (c) water damage insurance to the extent, if any, determined by the Board; (d) fidelity bond for the Managing Agent of the Condominium, to the extent, if any, determined by the Board; (e) errors and omissions coverage for members of the Board and officers, to the extent, if any, determined by the Board; (f) comprehensive general liability insurance and (g) such other insurance (including, without limitation, rent insurance, boiler and machinery insurance, elevator liability insurance and plate glass coverage, which are not included in Schedule B) as the Board may determine from time to time.

The amount of fire insurance and all risk extended coverage to be maintained until the first meeting of the Board following the first annual meeting of the Unit Owners shall be in at least the sum set forth in "Footnotes to Schedule B." Purchasers should refer to the "Footnotes to Schedule B" to determine the extent of insurance coverage and the cost thereof for the first year of condominium operation.

All policies of physical damage insurance shall contain, to the extent obtainable at reasonable rates, waivers of subrogation and waivers of any defense based on co-insurance or other insurance or of invalidity arising from any acts of the insured and of pro

rata reduction of liability, and shall provide that such policies may not be canceled or substantially modified without at least ten days' prior written notice to all of the insureds, including all Unit Owners, each of whom shall be an additional insured party and their mortgagees. Duplicate originals or certificates of insurance for all policies of physical damage insurance and of all renewals thereof, together with proof of payment of premiums, shall be delivered to all Unit Owners and their mortgagees at least ten days prior to the expiration of the then current policies. Each such policy shall contain a New York standard mortgagee clause in favor of each mortgagee of a Unit which shall provide that the loss, if any, thereunder shall be payable to the mortgagee as its interest may appear, subject, however, to the loss payment provisions in favor of the Board and the Insurance Trustee hereinafter set forth. Any insurance maintained by the Board may contain such deductible amounts as the Board may determine from time to time.

The premiums for all insurance referred to above shall be a Common Expense unless the Board determines to otherwise equitably apportion the cost of insurance among the Unit Owners as provided in the By-Laws.

Each Unit Owner may carry supplemental or additional insurance for his own benefit, provided that all such policies shall contain waivers of subrogation, and further provided that the liability of the carriers issuing insurance obtained by the Board shall not be affected or diminished by reason of any such supplemental or additional insurance carried by such Unit Owner.

Liability of Board, Officers, and Unit Owners

To the extent permitted by applicable law, no member of the Board or any managing agent, manager, or officer shall have any personal liability with respect to 1) any contract, act or omission of the Board or any managing agent, manager, or officer in connection with the affairs or operations of the Condominium (except in their capacities as Unit Owners), or 2) any mistake of judgment, negligence, or otherwise, except in either case, for their own willful misconduct or bad faith. The By-Laws require that every contract made by the Board or by any managing agent thereof or any officer shall state that (a) it is made only as agent for all Unit Owners and such Board or managing agent or officer shall have no personal liability thereon (except in their capacities as Unit Owners) and (b) the liability of any Unit Owner with respect to such contract shall be limited to (i) such proportionate share of the total liability as the Common Interests of all Units owned by such Unit Owner bears to the aggregate Common Interests of all Units, and (ii) unless provided by the Board in its sole and absolute discretion, such Unit Owner's interest in his Unit and its appurtenant Common Interest. A Unit Owner shall, in the same proportion as his Common Interest, indemnify each member of the Board and each officer against any and all claims, liabilities, damages, costs and expenses (including, without limitation, reasonable attorney's fees) arising out of or related to the performance of such duties as a member of the Board or officer, except those arising out of his own bad faith or willful misconduct, and except as may be provided by law. The Board may contract, or effect any other transaction, on competitive terms, with any member of the Board, any officer, any Unit Owner, Sponsor or its designee, or any

Exhibit D